D.B. CIVIL MISC. APPLICATION NO.7/2005

Lrs of Bhanwar Lal Vs. Stater of Rajasthan.

Date : 30.08.2006

PRESENT

HON'BLE MR. JUSTICE RAJESH BALIA

HON'BLE MR. JUSTICE GOPAL KRISHAN VYAS

Mr. Tribhuvan Gupta for the applicant.

Mr. O.P. Rathi, Dy. G.A. for the State.

Mr. Rajendra Mehta for the respondent.

BY THE COURT : (PER HON'BLE RAJESH BALIA, J.)

The Special Appeal No.560/99 was decided by order dated 27th June, 2003 noticing that the area of Khasra No.845 renumbered as 1205 min out of which 17 bighas 8 biswas land has been allotted to the respondent No.5, J.K. Industries vide order dated 8.7.1994 (Annex.7). This order was also subject matter of challenge in the writ petition by present applicant, who was legal representative of Bhanwar Lal.

According to the report that came before this Court out of total land comprised in khasra No.845 only 1 bigha 19 biswas has been made subject matter of grant to the writ-petitioner's ancestor under patta No.49 dated 7.12.1951 and the claim of the petitioner-applicant vis-a-vis J.K. Industries was confined to 1 bigha 19 biswas of old khasra No.845 and new Khasra No.1205 min. The Court noticed that if any part of allotment made to M/s J.K. Industries on identification of the land which is subject matter of patta allotted to the applicant's ancestor is found to be made to such patta holder then to that extent, the allotment in favour of M/s J.K. Industries cannot be sustained and necessary directions were issued in that regard.

In connection with the aforesaid directions, the present application has been moved by the legal representatives of the original petitioner Bhanwar Lal stating that the compliance in respect of the entire land has not been made by mutating the entire part of patta made in his favour.

The mutation of entries as per patta is not the subject matter of writ petition. However, the respondents have submitted that so far as the part of land situated in old khasra No.843 which fell in the patta allotted to the applicant's ancestor in 1951 was subject matter of acquisition and handed over to the J.K. Industries in 1974 and that was not subject matter of dispute in the writ petition and about which the learned counsel for the applicant has submitted that he has not been compensated in that regard though the fact of acquisition and handing over of possession to the respondent No.5 was not in dispute. So far as the old khasra No.845 is concerned, the report states that the land comprised in khasra No.845 ad measuring 1 bigha 19 biswas was part of the allotment made to the industry vide Annex.7 dt.8.7.1994 and to that extent allotment has been cancelled vide order dt.13.4.2005, which has been placed on record.

Be that as it may, the aforesaid entire controversy between the applicant and the respondent-industry now stands settled through negotiated

settlement by which the respondent industry has agreed to pay compensation of Rs.5,51,000/- to settle all the disputes relating the allotment made in favour of Industry to the extent he claims interest in such land which the applicant has accepted, settling all his claims against the respondent No.5 in respect of his entire land.

The learned counsel for the respondents state that so far as any private dispute relating to the allotment of land made to J.K. Industries by the State is concerned, it stands settled and no dispute remains outstanding and it is not in dispute that the industry is in possession of the land which has been allotted to it by the State. The question was only regarding claims outstanding in favour of the third party of the petitioner at the time allotment was made to the industry. Since that dispute stands settled, the order of the State Government to the extent it relates to the interest outstanding in favour of petitioner stand ratified and can be given effect to inasmuch this is not other dispute about such allotment between industry and the State. That being the position, no dispute survives between the

petitioner and the respondents.

In view of the petitioner's outstanding rights having come to an end, the allotment made by the State Government in favour of the respondent No.5 vide Annex.7 remains unaffected and that should be given effect to by the respondents.

This position is not disputed.

In view thereof, the order by which the allotment made in favour of the respondent No.5 to the extent 1 bigha 19 biswas of land in khasra No.1205 was cancelled and the land to that extent entered in the name of petitioner also cannot stand. Hence, the order passed by respondent authority cancelling the allotment of 1 bigha 19 biswas of land in khasra No.845 (New 1205 min) and its mutation in favour of petitioner deserves to be recalled and the entries relating to land in question deserves to be restored in favour of the industry, which we accordingly direct.

This application accordingly stands disposed of.

[GOPAL KRISHAN VYAS], J. [RAJESH BALIA], J.

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